IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

APPEAL NO.762 OF 2004
IN
CHAMBER SUMMONS NO.1746 OF 2004
IN
L.C.SUIT NO.550 OF 1977

Videocon International Limited .. Appellant

v/s.

Shankar Gharu Kirve & ors. .. Respondents

Mr.S.H.Doctor, senior counsel with Mr.A.S.Doctor i/by M/s.M.Ranchoddas & Co. for appellant.

Mr.Birendra Saraf i/by M/s.Udvadia & Udeshi for respondent No.2.

CORAM : R.M.LODHA AND
J.P.DEVADHAR, JJ.

DATED : 17th December, 2004

P.C.

During the course of motion hearing, the learned counsel for the respondent No.2 (original applicant B.Y.Pawar) submitted that the respondent No.2 is desirous of filing substantive suit for protection of his possession in the suit premises and to challenge the consent terms dated 6th August, 2004 between the appellant (original plaintiff) and the respondent No.1 (original defendant) and that the respondent No.2 may be permitted to withdraw the chamber summons No.1746 of 2004 upon which the impugned order came to be passed.

2. The learned senior counsel for the appellant does not have objection to the course suggested by the learned counsel for respondent No.2.

3. Accordingly, we pass the following order:-

(i) Chamber summons No.1746 of 2004 taken out by the respondent No.2 (original applicant) is allowed to be withdrawn.

(ii) In view of withdrawal of the chamber summons, the impugned order dated 6th October, 2004 is rendered ineffective and the appeal becomes infructuous.

(iii) For a period of six weeks the respondent No.2 shall not be dispossessed from the suit premises.

(iv) Needless to say that if any substantive suit is filed by the respondent No.2 and any interim application is made therein, the same would be heard and decided on its own merits after hearing the parties.

(R.M.LODHA, J.)

(J.P. DEVADHAR, J.)